(17,974.)

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1900.

No. 489.

THE CONSOLIDATED COAL COMPANY OF ST. LOUIS, PLAINTIFF IN ERROR,

vs.

THE PEOPLE OF THE STATE OF ILLINOIS.

IN ERROR TO THE SUPREME COURT OF THE STATE OF ILLINOIS

INDEX.

	Original.	Print.
Assignment of errors	*a*	1
Writ of error	*c*	1
Clerk's certificate as to copy of writ of error	*e*	2
Citation and service	*f*	3
Clerk's certificate as to copy of citation	*g*	3
Clerk's certificate and return to writ of error	*h*	4
Caption	1	4
Transcript from circuit court of St. Clair county	2	4
Caption	2	4
Declaration	3	5
Copy of account sued on	4	6
Plea	5	6
Bill of exceptions	6	6
Stipulation as to facts	7	7
Stipulation as to questions of law	10	8
Finding by the court	11	9

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	Original.	Print
Motion in arrest of judgment	11	9
Ruling on motion in arrest of judgment	12	9
Judge's certificate to bill of exceptions	12	9
Judgment	13	10
Clerk's certificate	14	10
Assignment of errors	14	10
Appearance for defendants in error	15	11
Order taking cause under advisement	16	11
Judgment	17	12
Opinion	18	13
Petition for writ of error	23	16
Order allowing writ of error	23	16
Bond on writ of error	25	16

a In the Supreme Court of the State of Illinois.

THE CONSOLIDATED COAL COMPANY OF St. Louis, Plaintiff in Error, *vs.* THE PEOPLE OF THE STATE OF ILLINOIS, Defendant in Error.	Error to the Circuit Court of St. Clair County.

And now comes the said plaintiff in error, by Charles W. Thomas, its attorney, and says that in the record and proceedings of the said supreme court in the above-entitled cause there is manifest error, in this:

First. The said supreme court erred in affirming the judgment of the said circuit court of St. Clair county.

Second. The said supreme court erred in not reversing the said judgment.

Third. The said supreme court erred in holding to be valid and not repugnant to the fourteenth amendment to the Constitution of the United States the acts of the General Assembly of the State of Illinois upon which the said suit is brought and mentioned in the declaration in the record aforesaid, to wit, an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, and the amendments thereto, and especially the amendments thereto approved June 15, 1895, and more particularly described in the stipulation of the parties contained in said record.

Wherefore the said plaintiff in error prays that the said judgment of the said supreme court, as well as the said judgment of the said circuit court of St. Clair county, may be reversed, and that
b such directions may be given that full force and efficacy may accrue to plaintiff in error by reason of its motion in arrest of judgment made in said cause in the said circuit court.

CHARLES W. THOMAS,
Attorney for Plaintiff in Error.

c The President of the United States to the honorable the judges of the supreme court of the State of Illinois, Greeting:

Because in the record and proceedings, as also in the rendition of the judgment which is in the said supreme court of the State of Illinois, before you or some of you, being the highest court of law or equity of the said State in which a decision could be had in the said suit between The Consolidated Coal Company of St. Louis, defendant and plaintiff in error, and The People of the State of Illinois, plaintiff and defendant in error, wherein was drawn in question the validity of a statute of the said State on account of its being repugnant to the Constitution of the United States and the decision was in favor of the validity of such statute, manifest error hath happened, to the great damage of the said Consolidated Coal

Company of St. Louis, plaintiff in error, as by its complaint appears, we, being willing that error, if any hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you may have the same at Washington on the 20th day of November, A. D. 1890, in the said Supreme Court, to be then and there held, that, the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right and according to the laws and customs of the United States should be done.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 22nd day of October, A. D. 1900.

d Attest my hand and the seal of the circuit court of the United States, at my office, in the city of Springfield, on the day and year last above written.

[The Seal of the Circuit Court of the United States for the South'n Dist. Ill.]

JAMES T. JONES,
Clerk of the Circuit Court of the United States.

Allowed this 22nd day of October, A. D. 1900.

CARROLL C. BOGGS, [SEAL.]
Chief Justice of the Supreme Court of the State of Illinois.

e In the Supreme Court of Illinois.

THE CONSOLIDATED COAL COMPANY *vs.* THE PEOPLE OF THE STATE OF ILLINOIS. } Error to St. Clair Circuit Court.

I, Richard F. Buckham, clerk of said supreme court, do hereby certify that on the twenty-fifth day of October, in the year of our Lord one thousand nine hundred, a copy of the foregoing writ of error for the defendants in error was lodged in my office, at Springfield, Illinois.

Witness my hand and the seal of said court this 25th day of October, A. D. 1900.

[Seal of the Supreme Court, State of Illinois, Aug. 23, 1818.]

RICHARD F. BUCKHAM,
Clerk of Supreme Court.

[Ten-cent U. S. internal-revenue stamp, canceled Nov. 9, 1900. R. F. B.]

f UNITED STATES OF AMERICA, ss:

The President of the United States to the People of the State of Illinois and Edward C. Akin, attorney general of the said State, Greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States, to be held at the city of Washington, within thirty days from the date of the service of this writ, pursuant to a writ of error filed in the office of the clerk of the supreme court of the State of Illinois for the southern division thereof, wherein The Consolidated Coal Company of St. Louis is plaintiff in error and you, the said People of the State of Illinois, *is* defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the Honorable Melville W. Fuller, Chief Justice of the Supreme Court of the United States, this 22nd day of October, A. D. 1900, and of the Independence of the United States the one hundred and twenty-fifth.

CARROLL C. BOGGS,
Chief Justice of the Supreme Court of the State of Illinois.

Attest: R. F. BUCKHAM, *Clerk.*

Service of the above citation and receipt of a copy thereof admitted this 24 day of October, A. D. 1900.

E. C. AKIN,
Attorney General of the State of Illinois.

g In the Supreme Court of Illinois.

THE CONSOLIDATED COAL COMPANY vs. THE PEOPLE OF THE STATE OF ILLINOIS. } Error to St. Clair Circuit Court.

I, Richard F. Buckham, clerk of said supreme court, do hereby certify that on the twenty-fifth day of October, in the year of our Lord one thousand nine hundred, a copy of the foregoing citation was lodged in my office, at Springfield, Illinois.

Witness my hand and the seal of said court this 25th day of October, A. D. 1900.

[Seal of the Supreme Court, State of Illinois, Aug. 23, 1818.]

RICHARD F. BUCKHAM,
Clerk of Supreme Court.

[Ten-cent U. S. internal-revenue stamp, canceled Nov. 9, 1900. R. F. B.]

h In the Supreme Court of Illinois.

THE CONSOLIDATED COAL COMPANY
vs.
THE PEOPLE OF THE STATE OF ILLINOIS. } Error to St. Clair Circuit Court.

I, Richard F. Buckham, clerk of the supreme court of Illinois for the southern grand division and keeper of the records and files thereof, by virtue of the foregoing writ of error and in obedience thereto, do hereby certify that the following pages, numbered from one (1) to twenty-seven (27), inclusive, contain a true and complete transcript and copy of the record and proceedings had in said court in the case which is above entitled, and of the whole thereof, including the opinion of the court, as the same remain of record and on file in my said office.

Seal of the Supreme Court, State of Illinois, Aug. 23, 1818.

In testimony whereof I have hereunto set my hand and caused the seal of said supreme court of Illinois to be hereunto affixed, at Springfield, this 25th day of October, in the year of our Lord one thousand nine hundred.

RICHARD F. BUCKHAM,
Clerk of Supreme Court.

[Ten-cent. U. S. internal-revenue stamp, canceled Nov. 9, 1900, R. F. B.]

1 At a supreme court begun and held at Springfield on Tuesday, the fifth day of December, in the year of our Lord one thousand eight hundred and ninety-nine, within and for the State of Illinois.

Present: James H. Cartwright, chief justice; Alfred M. Craig, justice; Jacob W. Wilkin, justice; Joseph N. Carter, justice; Benjamin D. Magruder, justice; Jesse J. Philips, justice; Carroll C. Boggs, justice; Edward C. Akin, attorney general; Charles M. Woods, sheriff.

Attest: JACOB O. CHANCE, *Clerk.*

Be it remembered that afterwards, to wit, on the first day of January, A. D. 1900, there was filed in the office of the clerk of said court a certain transcript of record; which said transcript is in the words and figures following, viz:

2 STATE OF ILLINOIS, }
St. Clair County. }

At a regular term of the circuit court within and for the county of St. Clair and State — Illinois, begun and held at the court-house, in the city of Belleville, in said county of St. Clair, on Monday, the 11th day of September, A. D. 1899, it being the second Monday of September A. D. 1899, according to the act of the General Assembly, by the Hon. William Hartzell, one of the judges of the third judicial

circuit of the State of Illinois, of which the said county of St. Clair forms a part, the following proceedings were had, to wit:

Present: Honorable William Hartzell, judge; Herman Barnickol, sheriff; M. D. Baker, State's attorney; Thomas May, Jr., clerk.

3 STATE OF ILLINOIS, } ss:
St. Clair County, }

In the Circuit Court of said County, September Term, A. D. 1899.

The People of the State of Illinois, plaintiff, by Edward C. Akin, attorney general of said State, complain of The Consolidated Coal Company, a corporation of Illinois, defendant, of a plea of assumpsit; for that whereas the defendant, on the 1st day of July, A. D. 1897, at, to wit, the county and State aforesaid, was indebted to the plaintiff in a large sum of money, to wit, the sum of $1,818.00, for and on account of inspection fees of State mine inspectors for the inspection of certain coal mines located in said State of Illinois, owned and operated by said defendant, theretofore inspected by said State mine inspectors under and pursuant to the provisions of an act of the General Assembly entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, and the amendments thereto, and especially the amendments thereto approved June 15, 1895; which said inspection fees the said defendant then and there undertook and promised to pay; yet the said defendant, though often requested, hath not paid the said sum of money nor any part thereof to the plaintiff, but has neglected and refused so to do, to the damage of the plaintiff of $2,000.00; wherefor they bring suit, etc.

And the said plaintiffs further complain of the said defendant, for that whereas the defendant, on, to wit, the 1st day of December, in the year of our Lord 1899, at, to wit, the county and State aforesaid, became and was indebted to the plaintiffs in the further sum of, to wit, $1,818.00, for and on account of inspection fees of State mine inspectors for the inspection of certain coal mines located in
4 said State of Illinois owned and operated by said defendant, theretofore and since July 1, 1897, inspected by said State mine inspectors under and pursuant to the provision of an act of the General Assembly entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, and the amendments thereto, and especially the amendments thereto approved June 15, 1895; which said inspection fees the said defendant then and there undertook and promised to pay; yet the said defendant, though often requested, hath not paid the said sum of money nor any part thereof to the plaintiff, but has neglected and refused so to do, to the damages of the plaintiff of $2,000; wherefore they bring suit, etc.

EDWARD C. AKIN,
Attorney General.

Copy of Account Sued on.

Consolidated Coal Company to the People of the State of Illinois.

To inspection fees of State mine inspectors	$2,000.00
To inspection of mines of defendant	2,000.00
To visits of inspection of coal mines of defendant by State mine inspectors	2,000.00
To investigation of coal mines of defendant by State mine inspectors	2,000.00

Filed Dec. 11th, 1899.

THOMAS MAY, JR.,
Circuit Clerk.

5 STATE OF ILLINOIS, } ss:
St. Clair County, }

In the Circuit Court of said County, September Term, A. D. 1899.

THE PEOPLE OF THE STATE OF ILLINOIS }
vs.
THE CONSOLIDATED COAL COMPANY. }

And now comes the said defendant, by Charles W. Thomas, its attorney, and says that it did not undertake and promise in manner and form as the plaintiffs have thereof in their said declaration complained against it; and of this it puts itself upon the country.

CHARLES W. THOMAS,
Defendant's Attorney.

Filed Dec. 11th, 1899.

THOMAS MAY, JR.,
Circuit Clerk.

6 STATE OF ILLINOIS, } ss:
St. Clair County, }

In the Circuit Court, September Term, A. D. 1899.

THE PEOPLE OF THE STATE OF ILLINOIS }
vs. } Assumpsit.
THE CONSOLIDATED COAL COMPANY. }

Be it remembered that upon the trial of this cause, which by consent of parties was tried by the court without the intervention of a jury, the following proceedings were had, to wit:

The plaintiffs, to sustain the issues on their part, read in evidence the following stipulations:

7 STATE OF ILLINOIS, } ss:
St. Clair County, }

In the Circuit Court of said County, September Term, A. D. 1899.

THE PEOPLE OF THE STATE OF ILLINOIS }
vs. }
THE CONSOLIDATED COAL COMPANY. }

It is hereby stipulated and agreed by and between the several parties, plaintiff and defendant, in the above-entitled suit, for the purpose of this cause and not otherwise, in manner and form following:

That the said defendant, The Consolidated Coal Company, a corporation, is now and for more than a year last past has been the owner of certain coal mines and coal shafts situated and located in mining districts designated as fourth district, fifth district, and sixth district, State of Illinois, as is hereinafter stated, and that defendant at all times employed more than six coal miners at each of its mines.

That the mines of the defendant, 31 in number, have been inspected between November 2, 1895, and June 26, 1899, by a State inspector of mines, under authority of the act hereinafter mentioned, as follows:

111 inspections at $6 each,
69 inspections at $8 each,
60 inspections at $10 each,

making an aggregate of $1,818 for inspection fees.

That David Roos, secretary of the bureau of labor statistics of this State, in the due course and order of the business of his office, presented to the said defendant bills and demanded payment for said inspections to the amount of $1,818, as hereinbefore stated,
8 and that said defendant has neglected and refused to pay said bills or said inspection charges or either of them.

That the total number of mines in this State subject to inspection during said period under paragraph D of section eleven (11) of an act of the legislature of this State entitled "An act to amend section eleven (11) of an act entitled 'An act providing for the health and safety of persons employed in coal mines,' approved May 28th, 1879, in force July 1st, 1879, as amended by an act approved June 18, 1883, and an act approved June 30, 1885, and to repeal section two (2) of an act entitled 'An act to require inspectors of mines to furnish information to the State geologist and to provide for the paying the expenses of the same, approved June 18, 1891,'" was eight hundred and fifty-three, 853.

That the number of said mines subject to inspection under the act of July 1, 1897, entitled "An act to amend section eleven (11) of an act entitled 'An act to amend section eleven (11) of an act entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, as amended by an act approved June 18, 1883, and an act approved June 30, 1885, and to repeal section two (2) of an act entitled 'An act to require inspectors of mines to furnish information to the State geolo-

gist and to provide for paying of the expenses of the same,' approved June 18, 1891," approved June 15, 1895, in force July 1, 1895, was four hundred and twenty-five (425), producing 92.71 of the entire coal product of this State.

That the number of inspectors appointed under said acts is and was during all the time covered by this stipulation seven.

9 That the salary of each of said inspectors is and was during all the time covered by this stipulation eighteen hundred dollars ($1,800) per annum.

This stipulation shall be accepted as a statement of the facts in the above-entitled cause, agreed to between the several parties litigant, and upon which this case is to be and shall be tried.

EDWARD C. AKIN,
Attorney General.
CHARLES W. THOMAS,
Attorney for Defendant.

Filed Dec. 11th, 1899.

THOMAS MAY, JR.,
Circuit Clerk.

10 THE PEOPLE OF THE STATE OF ILLINOIS, Plaintiffs,
vs.
THE CONSOLIDATED COAL COMPANY, Defendant.

It is hereby stipulated and agreed by and between the parties to said cause, by their respective attorneys, that the charges against said defendant upon which said suit is based and for the recovery of which said suit is brought were and are made under and pursuant to an act of the General Assembly entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, and the several amendments thereto since made and enacted, and that the question to be raised and disposed of in this suit is the validity and constitutionality of so much of said above-entitled act and the amendments thereto as relate to the inspection fees of the State mine inspectors and the imposing upon the mine operator and owner the duty of paying such fees, and also whether there is any remedy at law to recover such fees, and that if the said law is in these respects sustained under either or both counts of the declaration herein, the plaintiff shall have judgment for such sum or amount as appears by the stipulation and agreement of the parties on file herein to be due from the said defendant to the said plaintiffs and costs of suit; otherwise the defendant is to have judgment for its costs.

EDWARD C. AKIN,
Attorney General.
CHARLES W. THOMAS,
Attorney for Defendant.

11 And the plaintiffs rested, and defendant introduced no evidence, and this was all the evidence in the case; and thereupon the court found there is due from the defendant to the plaintiff the sum of $1,818.00 on account of the matters and things in the declaration mentioned; and to this finding of the court defendant at the time excepted.

And then the defendant made and filed the following motion in arrest of judgment:

STATE OF ILLINOIS, } ss:
St. Clair County, }

In the Circuit Court, September Term, A. D. 1899.

PEOPLE OF THE STATE OF ILLINOIS } Assumpsit.
vs.
THE CONSOLIDATED COAL COMPANY. }

And now comes the said defendant, by Charles W. Thomas, its attorney, and moves the court to arrest the judgment herein, and for cause and grounds of this motion defendant assigns the following:

I. The declaration sets out no cause of action.

II. The acts of the General Assembly of the State of Illinois in the declaration mentioned, and which authorized the imposition and collection of the inspection fees sued for, are invalid as being in contravention of the fourteenth amendment to the Constitution of the United States, in that they deny to the defendant the equal protection of the laws and provide for the taking of defendant's property without any due process of law.

12 III. The said acts are invalid because they contravene article IX of the constitution of the State of Illinois relating to revenue.

CHARLES W. THOMAS,
Attorney for Defendant.

And the court denied the motion, and to this action and decision of the court defendant at the time excepted, and then the court gave and entered judgment in favor of the plaintiffs and against the defendant for the said sum of $1,818.00 and the costs of this suit, to be taxed, and to this action and decision of the court the defendant at the time excepted; and, inasmuch as the matters and things aforesaid are not of themselves matters of record in the said cause, the defendant presents this its bill of exceptions and prays that it may be signed and sealed and made part of the record, which is done accordingly this 12th day of December, A. D. 1899.

WM. HARTZELL, [SEAL.]
Judge St. Clair Circuit Court.

13 THE PEOPLE OF THE STATE OF ILLINOIS
vs.
THE CONSOLIDATED COAL COMPANY. } Assumpsit.

And now, on this eleventh day of December, A. D. 1899, the same being the fourteenth Monday of the term, come the plaintiffs, by the attorney general, and the defendant, by Charles W. Thomas, its attorney, and this cause coming on to be tried, a jury is waived by the parties, and the cause is tried by the court by their consent. After hearing the evidence as contained in the stipulation of facts on file herein, the court finds issues for the plaintiffs, and that there is due to the plaintiffs from the defendant on account of the matters and things alleged in plaintiffs' declaration the sum of one thousand eight hundred and eighteen dollars. Thereupon the defendant made and filed herein its motion in arrest of judgment, which motion is by the court denied.

It is therefore considered, ordered, and adjudged by the court that plaintiffs have and recover from the defendant the said sum of one thousand eight hundred and eighteen dollars and the costs of this suit, to be taxed, and that plaintiffs have execution therefor.

14 STATE OF ILLINOIS, } ss:
St. Clair County, }

I, Thomas May, Jr., clerk of the circuit court of St. Clair county, in the State aforesaid, do hereby certify the above and foregoing to be a true and correct copy of: 1, declaration; 2, general issue; 3, bill of exceptions; 4, order of court, same being a complete record, as the same appears on file and of record in my office, in a certain cause lately pending in said court, on the law side thereof, wherein The People of the State of Illinois are plaintiff- and The Consolidated Coal Company is defendant.

In witness whereof I have hereunto set my hand and [SEAL.] affixed the seal of said court, at Belleville, this 13th day of December, A. D. 1899.

THOMAS MAY, JR., *Clerk*,
By PHIL H. JOPP, *Deputy*.

STATE OF ILLINOIS:

In the Supreme Court, — Term, A. D. 18—.

THE CONSOLIDATED COAL COMPANY, Pl't'ff in Error,
vs.
THE PEOPLE OF THE STATE OF ILLINOIS. } Error to St. Clair Circuit Court.

And now comes the said plaintiff in error, by Charles W. Thomas, its attorney, and says that in the record and proceedings aforesaid there is manifest error, in this:

I. The circuit court erred in denying the motion in arrest of judgment, and

II. In entering judgment against the defendant upon the finding, and

III. In finding the issues for the plaintiffs.

Wherefore the said plaintiff in error prays that the said judgment may be reversed.

CHARLES W. THOMAS,
Attorney for Plaintiff in Error.

15 And afterwards, to wit, on the 7th day of February, A. D. 1900, the appearance of defendant in error was filed in the words and figures following, viz:

In the Supreme Court of Illinois, February Term, A. D. 1900.

THE CONSOLIDATED COAL COMPANY, Plaintiff in Error,
vs.
THE PEOPLE OF THE STATE OF ILLINOIS, Defendants in Error.

And now comes the said defendant in error, by Edward C. Akin, attorney general, and enters its appearance in said cause to the present February term, 1900, of said court.

E. C. AKIN,
Attorney General.

16 And on the 15th day of February, A. D. 1900, the following proceedings were had and entered of record in said court:

THE CONSOLIDATED COAL COMPANY OF St. Louis
vs.
THE PEOPLE OF THE STATE OF ILLINOIS. } 1222. Error to Lawrence.

Now, on this day, come the parties hereto, and this being one of the days set apart for the call of the docket under the rules of this court, and it appearing to the court that plaintiff in error hath filed herein a duly certified transcript of the record and proceedings of the court below, together with printed abstracts thereof and briefs and arguments of counsel in support of the errors assigned herein, and entered motion to reverse the judgment and remand said cause and for costs, and the said defendant in error having entered motion to affirm said judgment and for costs and *procedendo*, and said motions being taken under advisement for final hearing, and the clerk of this court reporting that said cause is now ready to be taken, and said cause is here submitted for the consideration and judgment of the court:

Therefore it is ordered by the court that this cause be, and the same is hereby, taken under advisement.

17 *Affirmed Order.*

STATE OF ILLINOIS SUPREME COURT, *Southern Grand Division,* } ss:

At a supreme court begun and held on the first Tuesday in the month of June, in the year of our Lord one thousand nine hundred, the same being the fifth day of June, in the year of our Lord one thousand nine hundred.

Present: Carroll C. Boggs, chief justice; Benjamin D. Magruder, justice; Jacob W. Wilkin, justice; Jesse J. Phillips, justice; Joseph N. Carter, justice; James H. Cartwright, justice; John P. Hand, justice.

And afterwards, to wit, on the 21st day of June, in the year of our Lord one thousand nine hundred, an order was made by said court in words and figures following, to wit:

CONSOLIDATED COAL COMPANY *vs.* THE PEOPLE OF THE STATE OF ILLINOIS. } No. 1222. Error to Lawrence.

On this day come again the said parties, and the court having diligently examined and inspected as well the record and proceedings aforesaid as the matters and things therein assigned for error, and being now sufficiently advised of and concerning the premises, for that it appears to the court now here that neither in the record and proceedings aforesaid nor in the rendition of the judgment aforesaid is there anything erroneous, vicious, or defective, and that the record is no error; therefore it is considered by the court that the motions heretofore made to reverse the judgment and remand said cause for a new trial be, and the same are, denied, and the motion heretofore made to affirm the judgment herein is allowed, and it is therefore ordered by the court that the judgment aforesaid be affirmed in all things and stand in full force and effect notwithstanding the said matters and things therein assigned for error, and that motion for *procedendo* be allowed; and it is further considered by the court that the said defendant- in error recover of and from the said plaintiff in error costs by them in this behalf expended, and that they have execution therefor.

18 At a supreme court begun and held at Springfield on Tuesday, the fifth day of June, in the year of our Lord one thousand nine hundred, within and for the State of Illinois.

Present: Carroll C. Boggs, chief justice; Benjamin D. Magruder, justice; Jesse J. Phillips, justice; James H. Cartwright, justice; Jacob W. Wilkin, justice; Joseph N. Carter, justice; John P. Hand, justice; Edward C. Akin, attorney general; Charles M. Woods, sheriff.

Attest: RICHARD F. BUCKHAM, *Clerk.*

Be it remembered that afterwards, to wit, on the twenty-first day of June, 1900, the opinion of the court was filed in the words and figures following, to wit:

CONSOLIDATED COAL CO. vs. THE PEOPLE ex Rel. } No. 1222. Error to Lawrence. Appeal from —.

19 Docket No. 1222, Agenda 8, Southern Div., Feb., 1900.

THE CONSOLIDATED COAL CO. v. THE PEOPLE.

Mr. Justice PHILLIPS delivered the opinion of the court:

Judgment was rendered against the plaintiff in error for $1,818, on account of inspection fees for inspections made of its various mines by a State mine inspector between November 2, 1895, and June 26, 1899. There were one hundred and eleven inspections at $6 each, sixty-nine inspections at $8 each, and sixty inspections at $10 each. This writ of error is prosecuted to reverse that judgment.

The case was tried on an agreed statement of facts, from which it appears that the plaintiff in error is a corporation owning thirty-one mines in the fourth, fifth and sixth mining districts of the State of Illinois, for the inspection of which, during the time aforesaid, the inspection fees for which judgment was entered were charged. It was stipulated that the charges against said defendant upon which said suit is based and for the recovery of which said suit is brought, were and are made under and pursuant to an act of the General Assembly entitled "An act providing for the health and safety of persons employed in coal mines," approved May 28, 1879, in force July 1, 1879, and the several amendments thereto since made and enacted, and that the question to be raised and disposed of in this suit is the validity or constitutionality of so much of said above-entitled act, and the amendments thereto, as relate to the State mine inspectors and imposing upon the mine operator and owner the duty of paying such fees, and also whether there is any remedy at law to recover such fees; and that if the said law is in these respects sustained under either or both counts of the declaration herein, the plaintiff shall have judgment for such sum or amount as appears due, otherwise the defendant to have judgment for its costs.

Counsel for plaintiff in error in his brief says that the case of Chicago, Wilmington and Vermilion Coal Co. *v.* People, 181 Ill. 270, settles, so far as this court is concerned, all the questions that arise upon this record, except one, viz., whether or not the statute under which this suit was brought is in contravention of the fourteenth amendment to the Constitution of the United States,
20 in that it denies plaintiff in error the equal protection of the laws or takes its property without due process of law.

The act above referred to, as amended in 1897 (Hurd's Stat. 1897, p. 1088), after providing for the creation of inspection districts of the State to the number of seven, and the appointment of inspectors, one for each district, upon the recommendation of the board of examiners, and fixing their qualifications for office, experience, etc., oath, and bond conditioned for the faithful performance of their duties in every particular, as required by the act, to be approved by the governor, by paragraph 11*d* of the act provides as follows: "Any person, company or corporation operating any coal mine in this State shall be required to pay an inspection fee of not less than $6 nor more than $10 for each visit of inspection or investigation of a coal mine by a State mine inspector, such fee to be regulated by the class of the mine, which shall be fixed by the inspector and depend upon the length of time consumed, and the expense necessarily incurred in the inspection of such mine, and such fee shall be paid quarterly by the person, company or corporation operating the mine inspected to the secretary of the bureau of labor statistics and by him covered into the State treasury to be held as a fund for the payment of salaries of State mine inspectors, as herein provided. It shall be the duty of each inspector, as often as he may deem necessary and proper, and at least four times a year, to inspect each and every mine in his inspection district. Each inspection shall be certified to by the pit committee and mine manager of said mine. It shall be the duty of each inspector to keep a detailed record of all inspections and of all fees for such inspections, and he shall file a copy of the same with the secretary of the State bureau of labor statistics quarterly."

The section then proceeds to fix the salary of the inspectors at $1,800 per year, and provides that in the event of such fees being inadequate to compensate the inspectors in the amount provided, the deficiency in their salaries shall be paid out of any moneys in the State treasury not otherwise appropriated. The act further requires that the inspector shall be required to post up in a conspicuous place at the top of each mine visited and inspected by him, a plain statement of the condition of said mine, showing what, in his judgment, is necessary for the better protection of the lives and health of persons employed in said mine, the date of the in-
21 spection, the number of hours spent in the inspection, the date of the latest previous inspection, and provides for the authentication of the same by the inspector and check weighman.

In Chicago, Wilmington and Vermilion Coal Co. *v.* People, *supra*, we held that under the police power the legislature has the right to provide for the inspection of mines, and that it also has the right to place the burden of the expense of such inspections upon the mine-owners. Counsel for plaintiff in error contends, however, that the law in question is unconstitutional because it fails to lay down proper rules for its impartial execution; that it should fix the fees to be charged based upon the number of men employed or upon the size of the mine, or "some definite circumstance or condition," and should fix a reasonable number of inspections to be made annually, by which the exercise of an arbitrary discretion might be avoided. One inherent reason or excuse for impressing an industry with the duty

of submitting to an examination into its affairs or the conditions under which its business is conducted, lies in the fact that it is impracticable to lay down *a priori rules and regulations* or a sufficient test of their observance, which shall be fixed unalterably and unvarying, and in consequence thereof public safety demands a visitational control by the sovereign authorities, which shall be commensurate with the necessities and conditions as met, but ever reasonable, and without oppression or divestiture of property rights or greater than the exigencies demand, for the determination of which there is always the power reserved to the courts, and when a tribunal is called upon to pass upon such enactment it is met with every presumption in favor of the constitutionality of the act, and unless the legislative action is clearly subversive of private rights or perversive of legislative authority, after an examination into all the facts, circumstances and conditions that prompted or might have prompted the enactment of the act, its constitutionality must be upheld.

It is unnecessary to again recite at length the reasons given in Chicago, Wilmington and Vermilion Coal Co. *v.* People, *supra*, as to the necessity for requiring inspections of coal mines where men are employed. The act in question requires a certain number of inspections to be made annually, and these may be increased when
22 unforeseen conditions make the same necessary. A limitation of the number of inspections regardless of circumstances, or dependent solely on the number of men employed, or the size or shape of the mine, or its age, or any other one circumstance that occurs to us, would fritter away the benefits to be derived from the act and create a condition that might be productive of danger both to the safety of the mine and the lives of miners employed therein. The dipping of a fissure, by which gas may escape into the mine; the gathering of foul air in certain rooms therein, resulting from unknown causes, or the dangerous condition of the roof, may necessitate frequent inspections in the interest of safety to the mine and miners, which inspections would not be necessary where such conditions do not exist. Such causes and conditions cannot be foreseen. They may result from an extension of the work in the mine, from an explosion therein or in the ordinary blasting of coal, and from other causes resulting in the necessary manner of working the mine. When such conditions exist, inspection is necessary more often than when they are absent, and to attempt to lay down a rule by statute fixing the number of inspections would prevent a proper protection of operative miners, as required by section 29 of article 4 of the constitution, and would destroy the purposes of the act.

We have carefully examined the cases of Yick Wo *v.* Hopkins, 118 U. S., 256; Walch *v.* City of Denver, 53 Pac. Rep., 458, and City of Baltimore *v.* Radicke, 49 Md., 217, relied on by plaintiff in error, and find nothing to modify the views herein expressed.

The judgment of the circuit court of St. Clair county is affirmed.

Judgment affirmed.

23 And afterwards, to wit, on the 24th day of October, A. D. 1900, the following petition and order were filed in said cause:

In the Supreme Court of the State of Illinois.

THE CONSOLIDATED COAL COMPANY OF ST. Louis, Plaintiff in Error, *vs.* THE PEOPLE OF THE STATE OF ILLINOIS, Defendant in Error.	Error to the Circuit Court of St. Clair County.

To the honorable the judges of the Supreme Court of the United States:

Comes now the above-named plaintiff in error, by Charles W. Thomas, its attorney, and complains that in the record and proceedings had in said cause and also in the rendition of the judgment in said cause in the said supreme court of the State of Illinois on the 21st day of June, A. D. 1900, at a term of the said supreme court of the State of Illinois then being held at Springfield, whereby a certain judgment theretofore rendered against said plaintiff in error by the circuit court of St. Clair county, in said State, for the sum of one thousand and eighteen dollars and costs of suit, was in all things affirmed, manifest error hath happened, to the great damage of plaintiff in error.

Wherefore the said plaintiff in error, presenting herewith its assignment of error in due form, prays for the allowance of a writ of error, and for an order fixing the amount of bond in said cause to secure and cover costs, and for such other orders and process as may cause the said errors to be corrected by the said supreme court of the United States.

Dated this 22nd day of October, A. D. 1900.

CHARLES W. THOMAS,
Attorney for Plaintiff in Error.

The foregoing petition, as well as the assignment of errors therein mentioned and a bond in the penal sum of five hundred dollars, executed by said plaintiff in error, as principal, and The American Surety Company of New York, as surety, conditioned to
24 the effect that if said plaintiff in error, upon the allowance of a writ of error in said cause from the Supreme Court of the United States, shall make its plea good and answer all costs that shall be awarded against it, then said bond should be void, but otherwise to remain in full force and virtue, having been this day presented to me, and by me considered, it is ordered that said bond be approved, and that the writ of error prayed for be allowed.

Dated this 22nd day of October, A. D. 1900.

CARROLL C. BOGGS,
Chief Justice of the Supreme Court of the State of Illinois.

25 And, to wit, on the day last aforesaid, the following bond was filed in said cause:

Know all men by these presents that we, The Consolidated Coal Company of St. Louis, as principal, and American Surety Company of New York, as surety, are held and firmly bound unto the People

of the State of Illinois in the full and just sum of five hundred dollars, to be paid to the said People of the State of Illinois, their certain attorneys or legal representatives; to which payment, well and truly to be made, we bind ourselves, our successors and legal representatives, jointly and severally, firmly by these presents.

Sealed with our seals this 5th day of October, in the year of our Lord one thousand nine hundred.

Whereas lately, at a session of the supreme court of the State of Illinois, in a certain suit then pending in said court between The Consolidated Coal Company of St. Louis, appellant, and The People of the State of Illinois, appellee, a final judgment was rendered against the said appellant, and the said appellant having obtained a writ of error to reverse the judgment aforesaid, and a citation, directed to the said People of the State of Illinois, is about to be issued, citing and admonishing them to be and appear at the Supreme Court of the United States, to be holden at Washington:

Now, the condition of the above obligation is such that if the said Consolidated Coal Company of St. Louis shall prosecute its writ of error with effect, and shall answer all costs that may be awarded against it if it fails to make its plea good, then the above obligation to be void; otherwise to remain in full force and virtue.

THE CONSOLIDATED COAL COMPANY OF ST. LOUIS,

[SEAL.] By GEO. S. AYER, *Its Vice-President.*

AMERICAN SURETY COMPANY OF NEW YORK,

By S. M. DODD, *Resident Vice-President.*

Attest: A. W. CARR, *Secretary.*

Attest: R. L. RINAMAN,
Resident Assistant Secretary.

Approved
CARROLL C. BOGGS, [SEAL.]
Chief Justice Supreme Court of Illinois.

26 STATE OF MISSOURI, }
City of St. Louis, } ss:

On this 5th day of October, 1900, before me came R. L. Rinaman, known to me to be the resident assistant secretary of the American Surety Company of New York, the corporation described in and which executed the annexed bond of the Consolidated Coal Company of St. Louis as surety thereon, and who, being by me duly sworn, did say that he resides in the city of St. Louis, State of Missouri; that he is the res. ass't secretary of the American Surety Company of New York and knows the corporate seal thereof; that said company is duly and legally incorporated under the laws of the State of New York and has complied with the provisions of the act of Congress of August 13, 1894, allowing certain corporations to be accepted as surety on bonds; that said company has also complied with the provisions of the laws of the State of Missouri & Illinois re-

lating to the business of surety companies in said State-; that the seal affixed to the annexed bond of the Consolidated Coal Company of St. Louis is the corporate seal of said American Surety Company of New York and was thereto affixed by order and authority of the board of directors of said company, and that he signed his name thereto by like order and authority as resident assistant secretary of said company; that he is acquainted with S. M. Dodd and knows him to be the resident vice-president of said company, and that the signature of said S. M. Dodd subscribed to said bond is in the handwriting of said S. M. Dodd and was thereto subscribed by order and authority of the said board of directors, and that the assets of said company, unincumbered and liable to execution, exceed its claims, debts, and liabilities of every nature whatsoever by more than the sum of $500,000.00.

R. L. RINAMAN.

27 Sworn to, acknowledged before me, and subscribed in my presence this 5th day of October, 1900.

My commission expires May 5, 1902.

H. G. CLEAVLAND, [SEAL]

Notary Public for the City of St. Louis, State of Missouri.

Endorsed on cover: File No., 17,974. Illinois supreme court. Term No., 489. The Consolidated Coal Company of St. Louis, plaintiff in error, *vs.* The People of the State of Illinois. Filed November 24th, 1900.